

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1542**

**Introduced by Assembly Member Parra**

February 22, 2005

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An act to amend Section 1170.9 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1542, as amended, Parra. Crimes by veterans: sentencing.

Existing law establishes certain treatment programs as alternatives to incarceration to which certain offenders may be referred, as specified. *Existing law further provides that in the case of any person convicted of a felony who would otherwise be sentenced to state prison, if the court finds that the defendant was a member of the military forces of the United States who served in combat in Vietnam and who suffers from substance abuse or psychological problems resulting from that service, the court may order the defendant committed to the custody of federal correctional officials for incarceration for a term equivalent to that which the defendant would have served in state prison, provided the defendant agrees to the commitment, the court has determined that appropriate federal programs exist, and federal law authorizes the receipt of the defendant under those conditions.*

~~This bill would state the intent of the Legislature to enact legislation that would authorize judges to refer veterans who have recently returned from a theater of combat and been convicted of certain crimes to certain treatment programs in lieu of incarceration.~~

*This bill would revise this provision to provide that (1) the provision applies to any person convicted of a misdemeanor or a felony who*

would otherwise be sentenced to county jail or state prison; (2) the provision applies to any member of the military forces of the United States who served in combat and has been found to be suffering from post traumatic stress disorder, substance abuse, or psychological or emotional problems as a result of that service; (3) the court may order the defendant committed to any appropriate local, state, federal, or private nonprofit treatment program for which the defendant is eligible, provided the defendant agrees to the commitment; and (4) any defendant who has been convicted of a nonviolent offense shall receive probation, provided that as a condition of that probation the person successfully completes the specified treatment. By revising the penalties for existing crimes and by expanding the scope of duties of local probation and health officials, this bill would impose a state-mandated local program upon local government.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. It is the intent of the Legislature to enact~~  
 2     ~~legislation that would authorize judges to refer veterans who~~  
 3     ~~have recently returned from a theater of combat and been~~  
 4     ~~convicted of certain crimes to certain treatment programs in lieu~~  
 5     ~~of incarceration.~~

6     SECTION 1. Section 1170.9 of the Penal Code is amended to  
 7     read:

8     1170.9. (a) In the case of any person convicted of a  
 9     misdemeanor or a felony who would otherwise be sentenced to  
 10    county jail or state prison, the court shall ~~consider~~, prior to any  
 11    sentencing, order an assessment of the defendant to determine

1 whether the defendant was a member of the military forces of the  
2 United States who served in combat in Vietnam and who suffers  
3 from substance abuse or psychological problems resulting from  
4 that service who suffers from post traumatic stress disorder,  
5 substance abuse, or psychological or emotional problems as a  
6 result of that service. ~~ff~~

7 (b) (1) If the court concludes that the defendant is ~~such a~~  
8 person described in subdivision (a), the court may order the  
9 defendant committed to the custody of ~~federal correctional~~  
10 ~~officials for incarceration~~ a local, state, federal, or private  
11 nonprofit treatment program for which the defendant is eligible  
12 for a term equivalent to that which the defendant would have  
13 served in county jail or state prison. ~~The court may make such a~~  
14 ~~commitment only if, provided the defendant agrees to such a the~~  
15 ~~commitment; and the court has determined that an appropriate~~  
16 ~~local, state, federal programs exist, and federal law authorizes~~  
17 ~~the receipt of the defendant under such conditions, or private~~  
18 ~~nonprofit treatment program exists.~~

19 (2) Any person described in paragraph (a) who has been  
20 convicted of a nonviolent offense shall receive probation,  
21 provided that as a condition of that probation the person  
22 successfully completes treatment in a program described in  
23 paragraph (1).

24 (c) The court may defer the sentencing of a defendant until  
25 after the defendant has successfully completed the treatment  
26 program described in this section.

27 (d) The court, in making an order under this section to commit  
28 a defendant to a treatment program, shall give preference to a  
29 treatment program that has a history of successfully treating  
30 combat veterans who suffer from post traumatic stress disorder,  
31 substance abuse, or psychological or emotional problems as a  
32 result of that service.

33 SEC. 2. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution for  
35 certain costs that may be incurred by a local agency or school  
36 district because, in that regard, this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the  
38 penalty for a crime or infraction, within the meaning of Section  
39 17556 of the Government Code, or changes the definition of a

1 *crime within the meaning of Section 6 of Article XIII B of the*  
2 *California Constitution.*  
3 *However, if the Commission on State Mandates determines that*  
4 *this act contains other costs mandated by the state,*  
5 *reimbursement to local agencies and school districts for those*  
6 *costs shall be made pursuant to Part 7 (commencing with Section*  
7 *17500) of Division 4 of Title 2 of the Government Code.*

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